IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Yogesh Sharma. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No.842/2003
against the order dated 21-4-2003 passed
by the Judicial Magistrate No.3, Jodhpur, in
Criminal Regular Case No. 1489/1993.

...

Date of Order: November 02, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. M.K. Garg, for the petitioner.
Mr. N. Moolchandani, Public Prosecutor for the State.

BY THE COURT:

This criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 21-4-2006 passed by the Judicial Magistrate No.3, Jodhpur (for short, "the trial Court" hereinafter), whereby the trial Court framed charges against the petitioner for the offences under Sections 498-A and 406 IPC.

This case has a chequered history. The complainant filed a complaint on 28-5-1993 before the trial Court, which was sent to the police for investigation under Section 156 (3) of the Code. After investigation, the Challan was filed. The trial Court

took cognizance of the offences on 21-6-1993. The order taking cognizance was challenged and vide order dated 31-8-1994, the trial Court discharged the petitioner of the offences, against which complainant Smt. Kalpana filed a revision petition before the Sessions Judge, Jodhpur, which was transferred to the Court of the Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Jodhpur (for short, "the Revisional Court" hereinafter). The Revisional Court, vide order dated 28-2-1995, allowed the revision petition and set aside the order of discharge and remanded the matter to the trial Court. The order of the Revisional Court dated 28-2-1995 was challenged by the petitioner before this Court by way of filing S.B. Criminal Revision No. 196/1995. By the order dated 22-11-2001, this Court, while disposing the revision petition, directed the trial Court to "proceed afresh after giving opportunity of hearing to both the parties. It was made clear that the court will not be impressed by anything mentioned by this Court in its judgment or by the court below mentioned in the impugned order. If any objection regarding limitation or any other matter is taken, same shall also be decided by the trial Court afresh."

The point of limitation was argued by the learned counsel for the petitioner before the trial Court, which is evident from the order impugned. However, it nowhere appears from the order impugned as to whether the case was within the

period of limitation or not. By a cryptic order, the trial Court framed the charges against the petitioner ignoring the contentions raised by the counsel appearing for the petitioner before it, as also ignoring the direction of this Court dated 22-11-2001. In the circumstances, therefore, the order impugned deserves to be set aside and the matter deserves to be remanded to the trial Court to pass a fresh order in the light of the order passed by this Court on 22-11-2001.

In the result, the criminal miscellaneous petition is allowed. The order impugned dated 21-4-2003 passed by the trial Court is set aside and the matter is remanded to the trial Court to pass a fresh order keeping in view the directions of this Court dated 22-11-2001.

(H.R. PANWAR), J.

mcs